

AMENDED IN ASSEMBLY APRIL 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 792

Introduced by Assembly Member Bonilla

February 17, 2011

An act to add Sections 2024.7 and 8613.7 to the Family Code, to add Sections 1366.50 and 1366.51 to the Health and Safety Code, to add Sections 10786 and 10787 to the Insurance Code, to amend Section 2800.2 of the Labor Code, and to add Sections 1342.5 and 2706.5 to the Unemployment Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 792, as amended, Bonilla. Health care coverage: California Health Benefit Exchange.

Existing law, the federal Patient Protection and Affordable Care Act, requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that makes available qualified health plans to qualified individuals and employers. Existing state law establishes the California Health Benefit Exchange within state government, specifies the powers and duties of the board governing the Exchange relative to determining eligibility for enrollment in the Exchange and arranging for coverage under qualified health plans, and requires the board to facilitate the purchase of qualified health plans through the Exchange by qualified individuals and small employers by January 1, 2014.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law imposes specified

requirements on health care service plans and health insurers that provide medical and hospital coverage under an employer-sponsored group plan for an employer or *employee association* subject to *requirements under COBRA or Cal-COBRA*, as defined, *and imposes specified requirements on those employers or employee associations to notify its current and former employees or members and dependents of continuation coverage and conversion coverage options upon specified events*. Existing law regulates the distribution of unemployment compensation or disability benefits by the Employment Development Department. Existing law, under the Family Code, sets forth procedures related to a petition for dissolution of marriage, nullity of marriage, or legal separation, or a petition for adoption.

This bill would require the disclosure of information on health care coverage through the California Health Benefit Exchange, under specified circumstances, by health care service plans, health insurers, *employers, employee associations*, the Employment Development Department, upon an initial claim for disability benefits, or by the court, upon the filing of a petition for dissolution of marriage, nullity of marriage, legal separation, or adoption. ~~On~~

On and after January 1, 2014, the this bill would also require specified health care service plans and health insurers to, upon a renewal in coverage the failure of an enrollee or insured to renew his or her health coverage, as specified, or with regard to COBRA or Cal-COBRA upon termination of coverage under an employer-sponsored group plan, and the Employment Development Department with regard to an applicant for unemployment compensation, provide specified information to the California Health Benefit Exchange for purposes of enrolling those enrollees, insureds, individuals or applicants in the Exchange. The bill would make the automatic enrollment of those individuals in the Exchange subject to the plan or insurer, or employer or employee association, obtaining the consent of the individual at the time the individual or employer-sponsored group plan contract or policy is issued, amended, delivered, or renewed, as specified. The bill would make the automatic enrollment of those individuals by the Employment Development Department subject to the Exchange receiving approval from the United States Department of Health and Human Services to transfer the minimum information necessary to initiate an application for enrollment, as specified. The bill would allow an individual who is enrolled in the Exchange under those provisions to opt out of that coverage in writing to the Exchange, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2024.7 is added to the Family Code, to
2 read:

3 2024.7. Upon the filing of a petition for dissolution of marriage,
4 nullity of marriage, or legal separation, the court shall provide to
5 the petitioner and the respondent the following notice:

6
7 “If you do not have affordable health care coverage, effective
8 January 1, 2014, you may obtain health care coverage through the
9 California Health Benefit Exchange. What you pay for coverage
10 through the Exchange will depend on how much you make. If your
11 income is low, you may qualify for no-cost coverage through
12 Medi-Cal. For more information, check www.healthcare.ca.gov
13 or call 1-888-Healthhelp (insert telephone number).”

14
15 SEC. 2. Section 8613.7 is added to the Family Code, to read:
16 8613.7. Upon the filing of a petition for adoption pursuant to
17 this part, the court shall provide to the petitioner the following
18 notice:

19
20 “If you do not have affordable health care coverage, effective
21 January 1, 2014, you may obtain health care coverage through the
22 California Health Benefit Exchange. What you pay for coverage
23 through the Exchange will depend on how much you make. If your
24 income is low, you may qualify for no-cost coverage through
25 Medi-Cal. For more information, check www.healthcare.ca.gov
26 or call 1-888-Healthhelp (insert telephone number).”

27

SEC. 3. Section 1366.50 is added to the Health and Safety Code, to read:

1366.50. (a) Except for a specialized health care service plan, every health care service plan contract that is issued, amended, delivered, or renewed in this state on or after January 1, 2014, that provides medical and hospital coverage under an employer-sponsored group plan for an employer subject to COBRA, as defined in subdivision (e) of Section 1373.621, or an employer group for which the plan is required to offer Cal-COBRA coverage, as defined in subdivision (f) of Section 1373.621, including a carrier providing replacement coverage under Section 1399.63, shall further offer the former employee or former dependent of an employee the opportunity to continue benefits as required under subdivision (b), and shall further offer the former employee or former dependent of an employee the opportunity to continue benefits as required under subdivision (b). *At the time that the health care service plan contract is issued, amended, delivered, or renewed on or after January 1, 2012, the health care service plan shall obtain the consent of the enrollee to provide the minimum necessary information to the Exchange in the event that the individual or dependent ceases to be enrolled in coverage under an employer-sponsored group plan.*

(b) (1) The health care service plan shall provide to the California Health Benefit Exchange information regarding the former employee and any dependents covered under the group coverage. The information provided shall include the name or names, most recent address, and any other information that is in the possession of the plan and that the Exchange may require in a manner to be prescribed by the Exchange.

(2) The information shall ~~constitute~~ *initiate* an application for enrollment in coverage within the meaning of Section 100503 of the Government Code.

(c) (1) *On and after January 1, 2012, until December 31, 2013, notification provided to employees, members, former employees, spouses, or former spouses under subdivisions (a) and (b) shall also include the following notification:*

“Please examine your options carefully before declining this coverage. Until January 1, 2014, you should be aware that companies selling individual health insurance to adults who are

1 *19 years of age or older typically require a review of your medical*
2 *history that could result in a higher premium or you could be*
3 *denied coverage entirely. Effective January 1, 2010, children under*
4 *19 years of age cannot be denied individual coverage based on*
5 *medical history, but may pay a higher premium depending on*
6 *medical history.”*

7
8 ~~(e)-(1)-~~

9 (2) On and after January 1, 2014, notification provided to
10 employees, members, former employees, dependents, or former
11 dependents under subdivisions (a) and (b) shall also include the
12 following notification in 12-point type:

13
14 “Because you are no longer enrolled in coverage provided by
15 your employer or the employer of a family member, an application
16 for health care coverage through the California Health Benefit
17 Exchange has been made for you. You are not required to accept
18 coverage from the Exchange. Your payment for this coverage will
19 be based on your income last year. If you make significantly less
20 or more this year than you made last year, please tell the California
21 Health Benefit Exchange and your charges will be based on your
22 current income. If your income is low, you may qualify for no-cost
23 coverage through Medi-Cal. For more information, check
24 www.healthcare.ca.gov or call 1-888-Healthhelp (insert telephone
25 number).”

26
27 ~~(2)-~~

28 (3) To decline health care coverage *from the Exchange* pursuant
29 to this section, the individual shall elect to do so by notifying the
30 Exchange in writing within 63 calendar days of the date of
31 termination of group coverage.

32 SEC. 4. Section 1366.51 is added to the Health and Safety
33 Code, to read:

34 1366.51. (a) Except for a specialized health care service plan,
35 every health care service plan contract that is issued, amended,
36 delivered, or renewed in this state on or after January 1, 2014, that
37 provides medical and hospital coverage to an individual shall
38 further offer notice 60 days in advance of renewal, *amendment,*
39 *or any change in rate* of the opportunity to continue benefits as
40 required under subdivision (b), and shall further offer the individual

1 or former dependent of an individual the opportunity to continue
2 benefits as required under subdivision (b). *At the time that the*
3 *health care service plan contract is issued, amended, delivered,*
4 *or renewed on or after January 1, 2012, the health care service*
5 *plan shall obtain the consent of the enrollee to provide the*
6 *minimum necessary information to the Exchange in the event that*
7 *the individual or dependent ceases to be enrolled in individual*
8 *coverage.*

9 (b) (1) The health care service plan shall provide to the
10 California Health Benefit Exchange information regarding the
11 former covered individual and any dependents that chose not to
12 renew individual coverage. The information provided shall include
13 the name or names, most recent address, and any other information
14 that is in the possession of the plan and that the Exchange may
15 require in a manner to be prescribed by the Exchange.

16 (2) The information shall ~~constitute~~ *initiate* an application for
17 enrollment in coverage within the meaning of Section 100503 of
18 the Government Code.

19 (c) (1) On and after January 1, 2014, notification provided to
20 ~~employees, members, former employees~~ *individuals*, dependents,
21 or former dependents under subdivisions (a) and (b) shall also
22 include the following notification in 12-point type:

23
24 “Because you are no longer enrolled in coverage purchased by
25 you as an individual or as the dependent of a family member, an
26 application for health care coverage through the California Health
27 Benefit Exchange has been made for you. You are not required to
28 accept coverage from the Exchange. Your payment for coverage
29 will be based on your income last year. If you make significantly
30 less or more this year than you made last year, please tell the
31 California Health Benefit Exchange and your charges will be based
32 on your current income. If your income is low, you may qualify
33 for no-cost coverage through Medi-Cal. For more information,
34 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
35 telephone number).”
36

37 (2) To decline health care coverage *from the Exchange* pursuant
38 to this section, the individual shall elect to do so by notifying the
39 Exchange in writing within 63 calendar days of the date of
40 termination of individual coverage.

SEC. 5. Section 10786 is added to the Insurance Code, to read:

10786. (a) Every health insurance policy that is issued, amended, delivered, or renewed in this state on or after January 1, 2014, that provides medical and hospital coverage under an employer-sponsored group plan for an employer subject to COBRA, as defined in subdivision (e) of Section 10116.5, or an employer group for which the plan is required to offer Cal-COBRA coverage, as defined in subdivision (f) of Section 10116.5, including a carrier providing replacement coverage under Section 10128.3, shall further offer the former employee or former dependent of an employee the opportunity to continue benefits as required under subdivision (b), and shall further offer the former employee or former dependent of an employee the opportunity to continue benefits as required under subdivision (b). *At the time that the health insurance policy is issued, amended, delivered, or renewed on or after January 1, 2012, the health insurer shall obtain the consent of the insured to provide the minimum necessary information to the Exchange in the event that the individual or dependent ceases to be enrolled in coverage under an employer-sponsored group plan.*

(b) (1) The health insurer shall provide to the California Health Benefit Exchange information regarding the former employee and any dependents covered under the group coverage. The information provided shall include the name or names, most recent address, and any other information that is in the possession of the insurer and that the Exchange may require in a manner to be prescribed by the Exchange.

(2) The information shall ~~constitute~~ *initiate* an application for enrollment in coverage within the meaning of Section 100503 of the Government Code.

(c) (1) *On and after January 1, 2012, until December 31, 2013, notification provided to employees, members, former employees, spouses, or former spouses under subdivisions (a) and (b) shall also include the following notification:*

“Please examine your options carefully before declining this coverage. Until January 1, 2014, you should be aware that companies selling individual health insurance to adults who are 19 years of age or older typically require a review of your medical history that could result in a higher premium or you could be

1 *denied coverage entirely. Effective January 1, 2010, children under*
2 *19 years of age cannot be denied individual coverage based on*
3 *medical history, but may pay a higher premium depending on*
4 *medical history.”*

5
6 ~~(e)-(1)-~~

7 (2) On and after January 1, 2014, notification provided to
8 employees, members, former employees, dependents, or former
9 dependents under subdivisions (a) and (b) shall also include the
10 following notification in 12-point type:

11
12 “Because you are no longer enrolled in coverage provided by
13 your employer or the employer of a family member, an application
14 for health care coverage through the California Health Benefit
15 Exchange has been made for you. You are not required to accept
16 coverage from the Exchange. Your payment for this coverage will
17 be based on your income last year. If you make significantly less
18 or more this year than you made last year, please tell the California
19 Health Benefit Exchange and your charges will be based on your
20 current income. If your income is low, you may qualify for no-cost
21 coverage through Medi-Cal. For more information, check
22 www.healthcare.ca.gov or call 1-888-Healthhelp (insert telephone
23 number).”

24
25 ~~(2)-~~

26 (3) To decline health care coverage *from the Exchange* pursuant
27 to this section, the individual shall elect to do so by notifying the
28 Exchange in writing within 63 calendar days of the date of
29 termination of group coverage.

30 SEC. 6. Section 10787 is added to the Insurance Code, to read:

31 10787. (a) Every health insurance policy that is issued,
32 amended, delivered, or renewed in this state on or after January
33 1, 2014, that provides medical and hospital coverage to an
34 individual shall further offer notice 60 days in advance of renewal,
35 *amendment, or any change in rate* of the opportunity to continue
36 benefits as required under subdivision (b), and shall further offer
37 the individual or former dependent of an individual the opportunity
38 to continue benefits as required under subdivision (b). *At the time*
39 *that the health insurance policy is issued, amended, delivered, or*
40 *renewed on or after January 1, 2012, the health insurer shall*

1 *obtain the consent of the insured to provide the minimum necessary*
 2 *information to the Exchange in the event that the individual or*
 3 *dependent ceases to be enrolled in individual coverage.*

4 (b) (1) The health insurer shall provide to the California Health
 5 Benefit Exchange information regarding the former covered
 6 individual and any dependents that chose not to renew individual
 7 coverage. The information provided shall include the name or
 8 names, most recent address, and any other information that is in
 9 the possession of the insurer and that the Exchange may require
 10 in a manner to be prescribed by the Exchange.

11 (2) The information shall ~~constitute~~ *initiate* an application for
 12 enrollment in coverage within the meaning of Section 100503 of
 13 the Government Code.

14 (c) (1) On and after January 1, 2014, notification provided to
 15 ~~employees, members, former employees~~ *individuals*, dependents,
 16 or former dependents under subdivisions (a) and (b) shall also
 17 include the following notification in 12-point type:

18
 19 “Because you are no longer enrolled in coverage purchased by
 20 you as an individual or as the dependent of a family member, an
 21 application for health care coverage through the California Health
 22 Benefit Exchange has been made for you. You are not required to
 23 accept coverage from the Exchange. Your payment for coverage
 24 will be based on your income last year. If you make significantly
 25 less or more this year than you made last year, please tell the
 26 California Health Benefit Exchange and your charges will be based
 27 on your current income. If your income is low, you may qualify
 28 for no-cost coverage through Medi-Cal. For more information,
 29 check www.healthcare.ca.gov or call 1-888-Healthhelp (insert
 30 telephone number).”

31
 32 (2) To decline health care coverage *from the Exchange* pursuant
 33 to this section, the individual shall elect to do so by notifying the
 34 Exchange in writing within 63 calendar days of the date of
 35 termination of individual coverage.

36 SEC. 7. Section 2800.2 of the Labor Code is amended to read:

37 2800.2. (a) Any employer, employee association, or other
 38 entity otherwise providing hospital, surgical, or major medical
 39 benefits to its employees or members is solely responsible for
 40 notification of its employees or members of the conversion

1 coverage made available pursuant to Part 6.1 (commencing with
2 Section 12670) of Division 2 of the Insurance Code or Section
3 1373.6 of the Health and Safety Code. *At the time that the health*
4 *care service plan contract or health insurance policy is issued,*
5 *amended, delivered, or renewed on or after January 1, 2012, the*
6 *employer, employee association, or other entity shall obtain the*
7 *consent of the enrollee or insured to provide the minimum*
8 *necessary information to the Exchange in the event that the*
9 *individual or dependent ceases to be enrolled in coverage under*
10 *this section.*

11 (b) Any employer, employee association, or other entity, whether
12 private or public, that provides hospital, medical, or surgical
13 expense coverage that a former employee may continue under
14 Section 4980B of Title 26 of the United States Code, Section 1161
15 et seq. of Title 29 of the United States Code, or Section 300bb of
16 Title 42 of the United States Code, as added by the Consolidated
17 Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272),
18 and as may be later amended (hereafter “COBRA”), shall, in
19 conjunction with the notification required by COBRA that COBRA
20 continuation coverage will cease and conversion coverage is
21 available, and as a part of the notification required by subdivision
22 (a), also notify the former employee, spouse, or former spouse of
23 the availability of the continuation coverage under Section
24 1373.621 of the Health and Safety Code; and Sections 10116.5
25 and 11512.03 of the Insurance Code.

26 (c) (1) On or after July 1, 2006, until January 1, 2012,
27 notification provided to employees, members, former employees,
28 spouses, or former spouses under subdivisions (a) and (b) shall
29 also include the following notification:
30

31 “Please examine your options carefully before declining this
32 coverage. You should be aware that companies selling individual
33 health insurance typically require a review of your medical history
34 that could result in a higher premium or you could be denied
35 coverage entirely.”
36

37 (2) On and after January 1, 2012, until December 31, 2013,
38 notification provided to employees, members, former employees,
39 spouses, or former spouses under subdivisions (a) and (b) shall
40 also include the following notification:

1
2 “Please examine your options carefully before declining this
3 coverage. Until January 1, 2014, you should be aware that
4 companies selling individual health insurance to adults who are
5 19 years of age or older typically require a review of your medical
6 history that could result in a higher premium or you could be denied
7 coverage entirely. Effective January 1, 2010, children under 19
8 years of age cannot be denied individual coverage based on medical
9 history but may pay a higher premium depending on medical
10 history.”

11
12 (3) On and after January 1, 2014, notification provided to
13 employees, members, former employees, spouses, or former
14 spouses under subdivisions (a) and (b) shall also include the
15 following notification:

16
17 “Because you are no longer enrolled in coverage ~~purchased by~~
18 ~~you as an individual or as the dependent of a family member, an,~~
19 *an* application for health care coverage through the California
20 Health Benefit Exchange has been made for you. You are not
21 required to accept coverage from the Exchange. You will be
22 charged for Exchange coverage based on your income last year.
23 If you make significantly less or more this year than you made last
24 year, please tell the California Health Benefit Exchange and your
25 charges will be based on your current income. If your income is
26 low, you may qualify for no-cost coverage through Medi-Cal. For
27 more information, check www.healthcare.ca.gov or call
28 1-888-Healthhelp (insert telephone number).”

29
30 (d) To decline health care coverage *through the Exchange*
31 pursuant to this section, the individual shall elect to do so by
32 notifying the Exchange in writing within 63 calendar days of the
33 date of termination of individual coverage.

34 SEC. 8. Section 1342.5 is added to the Unemployment
35 Insurance Code, to read:

36 1342.5. (a) On and after January 1, 2014, when an individual
37 files a new claim for unemployment compensation under this
38 chapter, the department shall do all of the following:

39 (1) (A) Provide to the California Health Benefit Exchange the
40 name, address, and any other identifying information that is in the

1 possession of the department as the Exchange may require in a
2 manner to be prescribed by the Exchange. *To maximize the number*
3 *of individual Californians complying with the requirements of the*
4 *federal Patient Protection and Affordable Care Act (Public Law*
5 *111-148) by obtaining coverage consistent with the provisions of*
6 *federal law, the Exchange shall seek approval from the United*
7 *States Department of Health and Human Services to transfer the*
8 *minimum information necessary to initiate an application for*
9 *enrollment under this section consistent with Section 100503 of*
10 *the Government Code.*

11 (B) The information shall ~~constitute~~ *initiate* an application for
12 enrollment in coverage within the meaning of Section 100503 of
13 the Government Code.

14 (b) Provide the following notice to the individual:

15
16 “Because you have applied for unemployment compensation,
17 an application for health care coverage through the California
18 Health Benefit Exchange has been made for you. You are not
19 required to accept coverage from the Exchange. You will be
20 charged for Exchange coverage based on your income last year.
21 If you make significantly less or more this year than you made last
22 year, please tell the California Health Benefit Exchange and your
23 charges will be based on your current income. If your income is
24 low, you may qualify for no-cost coverage through Medi-Cal. For
25 more information, check www.healthcare.ca.gov or call
26 1-888-Healthhelp (insert telephone number).”

27
28 (c) To decline health care coverage *through the Exchange*
29 pursuant to this section, the individual shall elect to do so by
30 notifying the Exchange in writing.

31 SEC. 9. Section 2706.5 is added to the Unemployment
32 Insurance Code, to read:

33 2706.5. (a) When an individual files a new claim for disability
34 benefits under this part, the department shall provide the following
35 notice to the individual:

36
37 “If you do not have affordable health care coverage, effective
38 January 1, 2014, you may obtain health care coverage through the
39 California Health Benefit Exchange. What you pay for coverage
40 through the Exchange will depend on how much you make. If your

1 income is low, you may qualify for no-cost coverage through
2 Medi-Cal. For more information, check www.healthcare.ca.gov
3 or call 1-888-Healthhelp (insert telephone number).”
4

5 (b) This notice shall be provided upon initial application whether
6 or not the individual is eligible for disability benefits.

7 SEC. 10. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.